

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of

Truth-in-Billing
and
Billing Format

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

CC Docket No. 98-170

Petition for Temporary, Limited Waiver

Crown Point Telephone Company ("Crown Point"),¹ by counsel, hereby seeks temporary, limited waiver of the Truth-in-Billing ("TIB") requirements established by the Federal Communications Commission ("Commission" or "FCC") in its First Report and Order and Further Notice of Proposed Rulemaking in the above-captioned matter.² Specifically, Crown Point seeks temporary waiver of the requirements of Section 64.2401(a)(2) regarding separating charges by service provider (the "TIB Separate Provider Requirement")³ and Section 64.2401(d) regarding disclosure of inquiry contacts (the "TIB Inquiry Contact

¹ Attachment A contains the declaration of Patricia L. Knapp, President of Crown Point. The declaration bears a facsimile signature. The original signed declaration will be filed upon receipt by counsel.

² In the Matter of Truth-in-Billing and Billing Format, First Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 98-170, FCC 99-72, released May 11, 1999, 64 Fed. Reg. 34488 (June 25, 1999) ("TIB Order"); Errata, CC Docket No. 98-170, DA 99-2092, released October 6, 1999.

³ In pertinent part, 47 C.F.R. § 64.2401(a)(2) states that "[w]here charges for two or more carriers appear on the same telephone bill, the charges must be separated by service provider. . . ."

Requirement")⁴(collectively, the "TIB Requirements"). Crown Point seeks this waiver until April 1, 2000.

Crown Point, which is a member of the United States Telecom Association ("USTA"), recognizes that a pending Petition filed by USTA seeks similar relief for USTA member companies.⁵ Moreover, Crown Point recognizes that a pending Joint Petition filed by the National Exchange Carrier Association, Inc., the National Telephone Cooperative Association, and the Organization for the Promotion and Advancement of Small Telecommunications Companies, Inc. (collectively the "Associations") also seeks similar relief for their member companies. Accordingly, in the event that action on the USTA Petition and/or the Associations' Petition does not grant the extent of the relief requested herein, Crown Point requests a waiver of the TIB Requirements until April 1, 2000.

Until the requested waiver expires, Crown Point will continue to work diligently with its billing software vendor in order to have the necessary software changes made and tested in order to comply with the TIB Requirements. Moreover, even after the waiver expires, Crown Point's customer representatives will continue to provide assistance to customers with questions

³ 47 C.F.R. § 64.2401(d) states that:

Telephone bills must contain clear and conspicuous disclosure of any information that the customer may need to make inquiries about, or contest charges, on the bill. Common carriers must prominently display on each bill a toll-free number or numbers by which customers may inquire or dispute any charge contained on the bill. A carrier may list a toll-free number for a billing agent, clearinghouse, or other third party, provided that such party possesses sufficient information to answer questions concerning the customer's account and is fully authorized to resolve consumer complaints on the carrier's behalf. Each carrier must make its business address available upon request to consumers through its toll-free number.

⁵ See Public Notice, DA 99-1616, released August 13, 1999.

concerning charges from particular carriers. Crown Point respectfully submits that these actions will ensure that the underlying public interest objectives of the TIB Requirements will be advanced during the time that the requested waiver is in effect.

I. Background

Crown Point provides exchange and exchange access services to approximately 1,000 lines in New York. Crown Point is a rural telephone company under the Communications Act of 1934, as amended. Crown Point uses EUR Data Center, Inc. ("EUR") as its billing vendor. In June, 1999, after the release by the FCC of its TIB Order, Crown Point in conjunction with other companies began addressing the various TIB requirements with EUR in order to ascertain what billing system changes would be required to ensure Crown Point's compliance. Accordingly, Crown Point included these activities as one part of its Year 2000 issue checklist associated with all of its computer-based systems. Although TIB compliance efforts were undertaken, Crown Point will not be able to comply with the TIB Requirements by November 12, 1999.⁶

The need for this waiver arises from the billing services that Crown Point provides for charges for casual calling and alternate service providers (collectively referred to as "AOS providers"), i.e., carriers other than the presubscribed "1+" carrier of the customer. Specifically, Crown Point receives data from the AOS provider's clearinghouse, which, in turn, are aggregated in one section of Crown Point's end user bill. This bill section may identify one or, at times, several different AOS providers based on the customer's decision to make a casual

⁶ See 64 Fed. Reg. 55163 (Oct. 12, 1999); see also Public Notice, DA 99-2030 (Sept. 30, 1999) and Public Notice, DA 99-1789 (Sept. 2, 1999).

call or to use an alternative service provider in a given billing cycle. The charges that Crown Point receives are sorted by customer and by date and time of that customer's usage. Crown Point's existing billing system software does not, however, sort these call records by AOS provider where the records involve a "sub-CIC"⁷ of that provider.⁸ In addition, Crown Point's existing software is not capable of placing the name of such an AOS provider or its toll free number on the bill.⁹ Accordingly, Crown Point's existing software requires modifications to accommodate varying levels of screening and identification of an AOS provider, and to provide for the name and contact number of the AOS provider. These demands will, in turn, affect the processing time associated with rendering the bill. Compounding these challenges, however, is the fact that, on August 6, 1999, EUR informed Crown Point that no programming changes would be undertaken until February, 2000 in light of Year 2000 issues.

⁷ A "CIC" is the Carrier Identification Code assigned to a specific carrier. The use of "sub-CICs" allows other providers to share the CIC.

⁸ Crown Point notes that the instances where AOS service providers are not separated on the bill should be minimal. Based on Crown Point's experience, the vast majority of the customers being billed for AOS service provider calls make calls using only one (1) such provider. Crown Point reviewed a sample of bills from a representative month. Based on this review, Crown Point estimates that approximately four percent (4%) of its customers would have AOS service provider charges in a given month or typically less than forty (40) of the approximately 1,000 end user bills that Crown Point renders in a given month. In its sample, Crown Point did not identify any bill with more than one (1) AOS service provider listed, but recognizes that its customers may nonetheless make use of more than one (1) such provider in a given month. Accordingly, to ensure its compliance, Crown Point requests a waiver of the TIB Separate Provider Requirement.

⁹ Although Crown Point typically has the authority to issue credits to customers for AOS charges, the AOS providers may, independently, seek payment of those charges from customers. Accordingly, Crown Point is not "fully authorized to resolve consumer complaints on the carrier's behalf." 47 C.F.R. § 64.2401(d). Moreover, Crown Point notes that, in its experience, customer inquiries regarding AOS provider charges are minimal.

Accordingly, Crown Point will be technically incapable of complying with the November 12, 1999 date by which the TIB Requirements are scheduled to go into effect.¹⁰ Consistent with the implementation of other TIB-required billing software changes and based on discussions that Crown Point has had with EUR, Crown Point anticipates that compliance with these TIB Requirements should be possible by April 1, 2000.

**II. Good Cause Exists for and the Public Interest
will be Served by a Grant of this Limited Waiver**

Based on these facts and circumstances, Crown Point respectfully submits that good cause exists for a grant of this limited waiver, and that the public interest will be served by such action. As demonstrated herein, while Crown Point has made diligent efforts to comply with the TIB Requirements effective November 12, 1999, Crown Point's software vendor will not be able to develop the necessary software required to meet the TIB Requirements by this date in light of the need to address Year 2000 issues.¹¹ Moreover, even assuming the availability of the software upgrades, Crown Point would not be able to successfully test such upgrades. Crown Point anticipates, however, that compliance with the TIB Requirements should be

¹⁰ See n.6, supra.

¹¹ Accord USTA Petition at 4, 9, and 11.

possible by April 1, 2000. Accordingly, for the reasons stated, good cause exists for this waiver.¹²

Crown Point also respectfully submits that the public interest would be served by grant of this request. First, the Commission has recognized the need to balance the implementation of new regulatory directives which affect computerized systems with on-going Year 2000 activities.¹³ The software changes required by Crown Point clearly fall into this Commission-defined category. The Commission's concerns regarding utilization of its Year 2000 Policy Statement to "'forestall' or 'roll back' disfavored regulations, or use this policy for purposes of competitive advantage"¹⁴ are not applicable here. Crown Point will continue to work with EUR toward TIB compliance and seeks only a limited extension of time that is otherwise consistent with the underlying objectives which justified the Commission-prescribed compliance date of certain other TIB rules. Accordingly, there is no basis to conclude that Crown Point is attempting to "forestall" or "roll back" disfavored regulations. In addition, there is no "competitive advantage" associated with this request. A grant of this waiver does not affect a

¹² "The Commission may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest." WAIT Radio v. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969). Waiver of a Commission rule is appropriate where (1) the underlying purpose of the rule will not be served, or would be frustrated, by its application in a particular case, and grant of the waiver is otherwise in the public interest, or (2) unique facts or circumstances render application of the rule inequitable, unduly burdensome or otherwise contrary to the public interest, and there is no reasonable alternative. Northeast Cellular Telephone Co., L.P. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

¹³ See In the Matter of Minimizing Regulatory and Information Technology Requirements That Could Adversely Affect Progress Fixing the Year 2000 Date Conversion Problem, Year 2000 Network Stabilization Policy Statement, FCC 99-272, released October 4, 1999 ("Year 2000 Policy Statement") at para. 15.

¹⁴ Id. at para. 16.

competitor of the Crown Point; rather it allows an interim measure to be implemented that allows continuation of existing billing arrangements for other carriers in a manner consistent with the status of the overall TIB compliance efforts by Crown Point.

Second, the Commission has already determined that the April 1, 2000 date is appropriate for implementing other TIB rules.¹⁵ Accordingly, the ability of Crown Point to continue to work toward the April 1, 2000 implementation date for all TIB rules would ensure efficiency and continuity in the necessary enhancements of its billing system capability without incurring unnecessary expenditures or jeopardizing Year 2000 compliance issues.

Third, the underlying goal of the TIB Requirements -- the ability of a customer to identify a carrier and make inquiry concerning a charge -- would not be frustrated by a grant of the requested waiver. As is done today, even after the requested waiver expires, Crown Point will continue to provide its local telephone number on the bill in order to allow customers to contact it about AOS provider charges. When a customer questions an AOS provider charge, Crown Point will, at the customer's option, provide the AOS provider's toll free number or will seek to establish a three-way conference call with the AOS provider (or its billing clearinghouse) in order that the customer may address his/her concern about a charge. Accordingly, the goal of the TIB Requirements will be advanced. Waiver of the TIB Requirements as requested herein will merely maintain the status quo until such time as the billing system modifications are made and successfully tested, while effecting the goals of these requirements in an alternative manner.

Finally, Crown Point notes that, in the absence of this limited waiver of the TIB Requirements, its ability to bill for isolated customer-originated traffic on behalf of AOS

¹⁵ See n. 6, supra.

providers would be in jeopardy. Facing the risk of non-compliance with the TIB Requirements, Crown Point may be forced to consider terminating its billing relationship with the AOS providers. This, in turn, may increase the cost to the AOS provider of billing, thereby inhibiting the continued development of a competitive interexchange service marketplace.

Even assuming that harm to the public interest is present, that harm does not outweigh the public interest benefits arising from a grant of this request. As indicated, Crown Point's customer concerns over AOS provider charges have been minimal. Moreover, Crown Point anticipates that its experience will not change during the time that the requested waiver is in place.

III. Conclusion

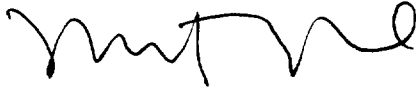
Because Crown Point is technically incapable of complying with the TIB Requirements by November 12, 1999, a grant of this request until April 1, 2000 will ensure that Crown Point can implement and successfully test the billing system software upgrades required to implement the TIB Requirements in an efficient manner, while avoiding unnecessary expense or raising additional Year 2000 compliance issues. At the same time, the consumer goals of these TIB rules will not be frustrated by a grant of this request. Rather, such goals will be furthered by Crown Point as it continues to provide customer assistance and responsiveness when questions are received regarding charges from particular carriers.

Accordingly, in the event that action on the USTA Petition and/or the Associations' Petition does not grant the extent of the relief requested herein, Crown Point requests a waiver of the requirements of 47 C.F.R. §§ 64.2401(a)(2) and 64.2401(d) until April 1, 2000.

Respectfully submitted,

Crown Point Telephone Company

By



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November 4, 1999

**Declaration of Patricia L. Knapp
President of
Crown Point Telephone Company**

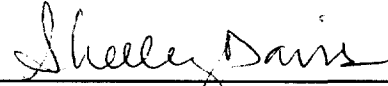
I, Patricia L. Knapp, President of Crown Point Telephone Company ("Crown Point"), do hereby declare under penalties of perjury that I have read the foregoing "Petition for Temporary, Limited Waiver" and the information contained therein regarding Crown Point is true and accurate to the best of my knowledge, information, and belief.

Date 11/4/99


Patricia L. Knapp
President

CERTIFICATE OF SERVICE

I, Shelley Davis, of Kraskin, Lesse & Cosson, LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037, hereby certify that a copy of the foregoing "Petition for Temporary, Limited Waiver" of Crown Point Telephone Company was served on this 4th day of November, 1999 by hand delivery to the following parties:



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